

STATE OF CALIFORNIA

Public Utilities Commission  
San Francisco

**M e m o r a n d u m**

**Date:** April 29, 2005

**To:** The Commission  
(Meeting of May 5, 2005)

**From:** Delaney L. Hunter, Director  
Office of Governmental Affairs (OGA) — Sacramento

**Subject:** **SB 1037 (Kehoe) Energy Efficiency**  
As Amended (April 11, 2005)

**LEGISLATIVE SUBCOMMITTEE RECOMMENDATION:** Support.

**SUMMARY:** This bill would require electric and gas utilities to first acquire all available, cost-effective energy efficiency and demand reduction resources when implementing their electric and gas procurement plans. In addition, this bill would delete the restriction on the use of energy efficiency funds to provide incentives for the purchase of new energy-efficient refrigerators. This bill would ensure that utilities continue to invest in energy efficiency measures that produce cost-effective energy savings, reduce customer demand, and contribute to the safe and reliable operation of the electric and gas distribution systems.

**DIVISION ANALYSIS (Energy):** The proposed bill contains three major components:

- Require electric utilities--in implementing their procurement plans—to first acquire all available energy efficiency and demand reduction resources that are cost-effective, as determined by the Commission.
- Require gas utilities—in procuring energy—to acquire first all available energy efficiency and demand reduction resources that are cost effective.
- Delete the restriction on the use of energy efficiency to provide incentives for the purchase of new energy-efficient refrigerators.

*Require electric utilities –in implementing their procurement plans– to first acquire all available energy efficiency and demand reduction resources that are cost-effective, as determined by the Commission* The Commission has issued decisions that are in

effect implementing this requirement. In Decision 02-10-062, the Commission established policy priorities for resource acquisition for utility short- and long-term procurement plans and identified energy efficiency as a priority resource to be included in utilities' portfolio proposals. Subsequently, the Commission adopted short-term and long-term procurement plans –which included energy efficiency-- for PG&E, SCE and SDG&E, in Decisions 03-12-060 and 04-09-060, respectively. Thus, the proposed bill requirement to include energy efficiency in utilities' electric procurement plan is being implemented by the Commission.

*Require gas utilities—in procuring energy—to first acquire all available energy efficiency and demand reduction resources that are cost effective.* As mentioned above, the Commission has identified energy efficiency as a priority in resource acquisition. As a result, the Commission initiated a Rulemaking 04-01-025 to establish policies and rules to ensure reliable long-term supplies of natural gas in California and committed to increased demand reduction efforts, which include energy efficiency. With the adoption of long-term gas energy savings goals in Decision 04-09-060, gas utilities must utilize these energy savings goals in their energy demand projections. Thus, the proposed bill requirement to include energy efficiency in utilities' gas procurement plan is being implemented by the Commission.

*Delete the restriction on the use of energy efficiency funds to provide incentives for the purchase of new energy-efficient refrigerators.* This requirement is currently being strictly implemented on energy efficiency programs using the public good charge fund. However, programs using procurement funds currently provide incentives for the new refrigerator purchase. Therefore, deleting this requirement would provide consistency in implementing energy efficient programs.

**STATUS:** Passed in Senate E. U. & C. on April 26<sup>th</sup> (Ayes 7 Noes 2). Re-referred to Senate Appropriations.

## **SUPPORT/OPPOSITION**

Support:

Natural Resources Defense Council

Opposition:

None on file.

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**Date:** April 29, 2005

**BILL LANGUAGE:**

BILL NUMBER: SB 1037      AMENDED

BILL TEXT

AMENDED IN SENATE    APRIL 27, 2005

AMENDED IN SENATE    APRIL 11, 2005

INTRODUCED BY      Senator Kehoe

FEBRUARY 22, 2005

An act to amend and repeal Section 399.4 of, and to add Sections 454.55, 454.6, 1002.3, and 9615 to, the Public Utilities Code, relating to public utilities.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1037, as amended, Kehoe.    Energy efficiency.

(1) The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires it to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide. Under that act, the Energy Commission also administers existing law with respect to energy conservation and renewable electricity generation sources.

Existing law authorizes the Public Utilities Commission to regulate public utilities, including electrical and gas corporations. ~~Existing law~~ *The Public Utilities Act* requires the commission to review and adopt a procurement plan for each electrical corporation. *The act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require that construction.* Under existing law, a person is guilty of a crime for failing to comply with provisions of the ~~Public Utilities Act~~ *act*, or with an order or decision of the commission.

This bill would require the commission to require an electrical corporation, in implementing its procurement plan, to first acquire all available energy efficiency and demand reduction resources that are cost effective *and feasible*, as determined by the commission.

The bill would require the commission to require ~~a~~ each gas corporation, in procuring energy *for long-term needs*, to first acquire all available energy efficiency and demand reduction resources that are cost effective *and feasible*. The bill would require the commission, in consultation with the Energy Commission, to establish savings targets based on an evaluation of all achievable cost-effective savings potential.

*The bill would require the commission, in considering an application for a certificate of public convenience and necessity for an electric transmission or distribution facility, to consider all cost effective alternatives to transmission and distribution facilities that meet the need for an efficient, reliable, and*

*affordable supply of electricity, including specified demand reduction resources.*

The bill, by requiring the commission to impose new requirements on electrical and gas corporations, the violation of which would be a crime, would create new crimes, thereby imposing a state-mandated local program.

(2) Existing law relating to electrical restructuring imposes certain requirements on local publicly owned electric utilities.

This bill would require each local publicly owned electric utility, in procuring energy *for long- term needs*, to first acquire all available energy efficiency and demand reduction resources that are cost effective *and feasible*. *The bill would require each local publicly owned electric utility to report annually to its customers its investment on energy efficiency and demand reduction programs*. The bill, by imposing new requirements on local publicly owned electric utilities, would impose a state-mandated local program.

(3) Existing law requires the commission, in evaluating energy efficiency investments under its existing statutory authorities, to ensure that no energy efficiency funds are used to provide incentives for the purchase of new energy-efficient refrigerators.

This bill would repeal that requirement.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 399.4 of the Public Utilities Code, as added by Section 4 of Chapter 1050 of the Statutes of 2000, is repealed.

SEC. 2. Section 399.4 of the Public Utilities Code, as added by Section 4 of Chapter 1051 of the Statutes of 2000, is amended to read:

399.4.

(a) (1) In order to ensure that prudent investments in energy efficiency continue to be made that produce cost-effective energy savings, reduce customer demand, and contribute to the safe and reliable operation of the electric distribution grid, it is the policy of this state and the intent of the Legislature that the commission shall continue to administer cost-effective energy efficiency programs authorized pursuant to existing statutory authority.

(2) As used in this section, the term "energy efficiency" includes, but is not limited to, cost-effective activities to achieve peak load reduction that improve end-use efficiency, lower customers' bills, and reduce system needs.

(b) The commission, in evaluating energy efficiency investments under its existing statutory authorities, shall also ensure that local and regional interests, multifamily dwellings, and energy

service industry capabilities are incorporated into program portfolio design and that local governments, community-based organizations, and energy efficiency service providers are encouraged to participate in program implementation where appropriate.

SEC. 3. Section 454.55 is added to the Public Utilities Code, immediately following Section 454.5, to read:

454.55.

The commission shall require an electrical corporation, in implementing its procurement plan pursuant to Section ~~454~~

454.5, to first acquire all available energy efficiency and demand reduction resources that are cost effective *and feasible*, as determined by the commission.

SEC. 4. Section 454.6 is added to the Public Utilities Code, to read:

454.6.

The commission shall require ~~a~~ each gas corporation, in procuring energy *for long-term needs*, to first acquire all available energy efficiency and demand reduction resources that are cost effective *and feasible*. The commission, in consultation with the State Energy Resources Conservation and Development Commission, shall establish savings targets based on an evaluation of all achievable cost-effective savings potential.

SEC. 5. Section 1002.3 is added to the Public Utilities Code, to read:

1002.3.

~~It is the intent of the Legislature that all cost effective alternatives to transmission and distribution facilities that meet the need for an efficient, reliable, affordable supply of electricity, including demand side alternatives such as targeted energy efficiency, ultraclean distributed generation, and other demand reduction resources be considered in electricity transmission and distribution planning, and that planning for transmission is conducted on a statewide, rather than a project by project, basis. In considering an application for a certificate for an electric transmission or distribution facility pursuant to Section 1001, the commission shall consider all cost effective alternatives to transmission and distribution facilities that meet the need for an efficient, reliable, and affordable supply of electricity, including, but not limited to, demand-side alternatives such as targeted energy efficiency, ultraclean distributed generation, as defined in Section 353.2, and other demand reduction resources.~~

SEC. 6. Section 9615 is added to the Public Utilities Code, to read:

9615.

(a) Each local publicly owned electric utility, in procuring energy *for long-term needs*, shall first acquire all available energy efficiency and demand reduction resources that are cost effective ~~—~~ *and feasible*.

(b) Each local publicly owned electric utility shall report annually to its customers its investment in energy efficiency and demand reduction programs. A report shall contain a description of programs, expenditures, and expected and actual energy savings results.

SEC. 7.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that

regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.